



CDSS

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PIN 18-02-CRP

TO: ALL LICENSED CHILDREN'S RESIDENTIAL FACILITIES
ALL CHILDREN'S RESIDENTIAL PROGRAM STAFF

Original signed by Pamela Dickfoss

FROM: PAMELA DICKFOSS
Deputy Director
Community Care Licensing Division

SUBJECT: **2017 CHAPTERED LEGISLATION AFFECTING CHILDREN'S
RESIDENTIAL FACILITIES: SUMMARY AND IMPLEMENTATION**

Provider Information Notice (PIN) Summary

PIN 18-02-CRP provides a summary and implementation information for legislation chaptered in 2017 affecting licensed Children's Residential Facilities. Statutes referenced in this document are operative on January 1, 2018.

"ACTION REQUIRED"

BILL INFORMATION	SUBJECT	PAGE
Assembly Bill (AB) 404 (Mark Stone), Chapter 732, Statutes of 2017	Foster Care: Continuum of Care Reform (CCR) Amends and adds sections to Health and Safety Code (HSC), Welfare and Institutions Code (WIC), Education Code, Family Code, and Penal Code, providing fixes to issues encountered in the implementation of CCR.	Page 2
BILL INFORMATION	SUBJECT	PAGE
Senate Bill (SB) 612 (Mitchell), Chapter 731, Statutes of 2017	Foster Care: Transitional Housing Amended HSC Section 1506 and HSC 1559.110 and WIC Section 16522.1 , which mandate changes to laws governing the Transitional Housing Placement Program (THPP) and Transitional Housing Placement Plus Foster Care (THP+FC) Program.	Page 5

“INFORMATION ONLY – NO ACTION REQUIRED”		
BILL INFORMATION	SUBJECT	PAGE
SB 213 (Mitchell), Chapter 733, Statutes of 2017	Placement of Children: Criminal Records Check Amended Section 1522 of the Health and Safety Code to revise the criteria for criminal record exemptions for foster family homes, resource families, relative caregivers and nonrelative extended family members (NREFM).	Page 8
SB 420 (Monning), Chapter 333, Statutes of 2017	State Summary Criminal History Information: Sentencing Information Amended Section 11105 of the Penal Code to clarify that the California Department of Justice must provide sentencing information as part of the criminal history information disseminated to the California Department of Social Services.	Page 11

AB 404 (Mark Stone), Chapter 732, Statutes of 2017

[AB 404](#) is a California Department of Social Services (CDSS) sponsored bill for the CCR. It provides legislative clean up to its preceding CCR bills, [AB 403](#) (2015) and [AB 1997 \(2016\)](#). AB 404 amends and adds sections to the HSC, WIC, Education Code, Family Code, and Penal Code, providing fixes to issues encountered in the implementation of CCR.

The additions and amendments that AB 404 makes to the Health and Safety and Welfare and Institutions Codes impact licensed children’s residential facilities as follows:

All Licensed Children’s Residential Facilities

- Clarifies existing requirements to maintain a smoke-free environment apply to all licensed children’s residential facilities, and extends this same requirement to resource families ([HSC §1530.7 \(a\) and \(b\) and \(c\)](#)).

Foster Family Agencies (FFAs) and their Resource Families and Certified Family Homes (CFHs)

- For FFAs serving developmentally disabled children, AB 404 authorizes the Department to extend the deadline for national accreditation from December 31, 2018 to December 31, 2019 ([HSC §1506.1\(b\)\(6\)](#)).
- Gives authority for child specific resource family approvals (RFA) ([HSC §1517\(a\)\(4\)\(B\)](#)).

- Clarifies that the two-year prohibition on reviews of resource family applications is based on the effective date on the final decision or order, or the date on the notice if the notice was not appealed ([HSC §1517\(a\)\(7\)\(E\)](#)).
- Prohibits a resource family from being licensed to operate a residential facility, as defined in Section 1502, a residential care facility for the elderly, as defined in Section 1569.2, or a residential care facility for persons with chronic life-threatening illnesses, as defined in Section 1568.01, on the same premises used as the residence of the resource family ([HSC § 1517\(a\)\(10\)](#)).
- Clarifies that when the Department orders an FFA to deny an RFA application or rescind an RFA, the order remains in effect until the hearing has been completed and the Department has made a final decision ([HSC §1517 \(d\)\(2\)\(B\)](#)).
- Allows a CFH, who provided respite care services between January 1, 2017 and December 31, 2017, to become a resource family on the date of a successfully completed psychosocial assessment ([HSC §1517\(f\)\(5\)\(C\)](#)).
- Clarifies that a CFH without a placement between January 1, 2017 and December 31, 2017, AND that did not provide respite care between January 1, 2017 and December 31, 2017, shall forfeit certification on January 1, 2018 ([HSC §1517\(f\)\(8\)\(A\)](#)).
- Gives authority for an FFA to review and discuss with an applicant the child welfare database information pertinent to the psychosocial assessment portion of the RFA application process ([HSC §1517\(h\)](#)).
- Gives FFAs the authority to place a resource family on inactive status upon a request from the family ([HSC §1517.4\(a\)\(1\)](#)).
- Allows an FFA approved resource family to be approved by a subsequent FFA and a county approved resource family to be approved by an FFA, after an abbreviated application process ([HSC §1517.5 \(a\) and \(b\)](#)).
- Requires an FFA to forward a copy of the written report and any updates, for a resource family to a subsequent FFA or to a county when the family seeks approval from the subsequent FFA or county ([HSC § 1517.5\(a\)\(2\)\(C\)\(ii\)](#); [WIC § 16519.58\(a\)\(2\)\(B\)\(ii\)](#)).
- Provides that FFAs will not be charged annual fees for resource families placed on inactive status if the inactive period exceeds one year ([HSC §1523.1\(b\)\(3\)\(B\)](#)).
- Creates a new program called “Intensive Services Foster Care” and permits FFAs to voluntarily participate ([WIC §18360-§18360.35](#)).

Group Homes and Short-Term Residential Therapeutic Programs (STRTP)

- Applies to STRTPs the existing group home requirement for the facility administrator, facility manager, or his or her responsible designee to use a reasonable and prudent parent standard ([WIC §§362.05\(a\)\(1\) and \(b\)](#), and [727\(a\)\(4\)\(F\)](#)).
- Clarifies case management and case plan requirements for NMDs placed in STRTPs. Clarifies that additional restrictions on NMD (NMD) placement in group homes (including the NMD being under 19 or still finishing high school) does not extend to STRTPs ([WIC §16501.1\(d\)\(4\)](#)).
- Makes conforming amendments to Children with Special Health Care Needs statutes to include STRTPs as appropriate ([WIC §17700](#), [§17710](#), [§17730](#), [§17731](#), [§17732](#), [§17732.1](#), [§17732.2](#), [§17734](#), and [§17736](#)).

Temporary Shelter Care Facilities

- Removes requirement for the children to be under 18 years of age, allowing Temporary Shelter Care Facilities to serve NMDs ([HSC §1530.8\(c\)\(2\)](#)).
- Adds Temporary Shelter Care Facilities to the group of facilities for which specified information must be included in the Department's published list of licensed community care facilities ([HSC §1536\(a\)\(2\)](#)).
- Applies reporting and inspection requirements related to law enforcement contacts to Temporary Shelter Care Facilities ([HSC §1538.7\(a\)\(b\) and \(c\)](#)).

Transitional Shelter Care Facilities

- Removes requirement for the children to be under 18 years of age, allowing Transitional Shelter Care Facilities to serve NMDs ([HSC §1502.3\(b\)](#)).
- Adds Transitional Shelter Care Facilities to the group of facilities for which specified information must be included in the Department's published list of licensed community care facilities ([HSC§1536\(a\)\(2\)](#)).
- Applies reporting and inspection requirements related to law enforcement contact to Transitional Shelter Care Facilities ([HSC 1538.7\(a\), \(b\) and \(c\)](#)).

Implementation:

Effective January 1, 2018. Intensive Services Foster Care (ISFC) is a new voluntary county/FFA program being developed by the Department's Foster Care Audits and Rates Branch (FCARB). The FFAs choosing to have an ISFC program will be required to update their program statements and turn them into the appropriate regional office. Before the regional office reviews a program statement, the Licensing Program Analyst (LPA) will send a copy of it to FCARB for its review. The FCARB will ensure the ISFC program requirements are met and will notify the regional office. No FFA program statements that include ISFC programs shall be approved by the regional office unless the ISFC program is first approved by FCARB. The LPA will ensure that elements of the ISFC program exist at the facility as they are described in the program statement; if that is not the case, the LPA shall provide the FFA with a verbal or written consultation or a deficiency notice citing [FFA ILS §88222\(f\)](#), if necessary. The Department will provide further direction after the ISFC requirements are developed.

Step	Who	Action
1	FFA	If applicable, update program statement to include ISFC program requirements and submit to appropriate regional office.
2	LPA	Submit copy of program statement to FCARB to ensure ISFC program requirements are met. During inspection, if LPA finds that elements of the ISFC program are not met as described in program statement, LPA shall provide verbal or written consultation or a deficiency notice to provider citing FFA ILS §88222(f) .
3	FFA/LPA	The Department will provide further direction after the ISFC requirements are developed.

Please Note: The remainder of the requirements in AB 404 will be included in the FFA and STRTP Interim Licensing Standards as applicable in 2018.

SB 612 (Mitchell), Chapter 731, Statutes of 2017

[SB 612](#) amended Sections 1506 and 1559.110 of the HSC and Section 16522.1 of the WIC, which mandate changes to laws governing licensed transitional housing placement providers and the THPP for minor and NMDs effective January 1, 2018.

The following is a summary of the changes made by SB 612:

- A CFH or resource family of a FFA may be concurrently certified as a host family if the home is certified by the same private, nonprofit organization licensed to operate as a transitional housing placement provider and FFA. The host family shall comply with the laws applicable to a CFH or resource family, as applicable, for each participant placed with the host family ([HSC Section 1506\(a\)\(4\)\(A-B\)](#)).

- The bill clarifies that prior to licensure, a transitional housing placement provider shall obtain program certification from the applicable county. For purposes of this paragraph, “applicable county” means the county where the administrative office or sub administrative office of a transitional housing placement provider is located, or a primary placing county. ([HSC Section 1559.110\(a\)\(3\)](#)).
- The names of the county program certifications have also changed from “transitional housing placement program” to “transitional housing placement program for minor foster children” and from “transitional housing placement plus-foster care program” to “transitional housing placement program for NMDs” ([WIC § 16522.1\(a\)\(1\) and \(2\)](#)).
- The transitional housing unit in which a participant lives with an adult employee of the provider, also informally known as a “single site,” will now be known as a “staffed site.” A staffed site is a housing unit in which a participant lives in an apartment, single-family dwelling, or condominium owned, rented, or leased by a transitional housing placement provider either with an adult employee of the provider who provides supervision or in a building in which one or more adult employees of the provider reside and provide supervision ([HSC Section 1559.110\(d\)\(2\)](#)).
- Transitional housing placement providers will now be permitted to co-sign a lease agreement with a NMD as specified by the Department. Also, transitional housing placement providers will be prohibited from allowing a NMD to solely sign a rental or lease agreement ([HSC Section 1559.110\(e\)\(1-2\)](#)).
- Program statements must be updated to include core services and supports set forth in paragraph (5) of subdivision (b) of Section 11463 of WIC and as prescribed by the Department ([HSC Section 1559.110\(f\)](#)).
- The bill changed the program staffing ratio of case manager to NMD participant to not exceed a shared average caseload of 1 to 12, inclusive, with a designated lead case manager assigned to each youth ([HSC Section 1559.110\(g\)\(2\)\(D\)](#)).
- Minor and NMD participants may share a bedroom with another participant, a county THP-Plus participant, the participant’s children, or a nonparticipant on a case-by-case basis approved by the provider, provided any adult nonparticipant or county THP-Plus participant has a criminal record clearance or exemption. Additionally, the Department may specify other individuals with whom a participant may share a bedroom ([HSC Section 1559.110\(g\)\(2\)\(E\) and \(F\)](#)). The updated program statements shall include confirmation that the provider has established a process which includes the county if the county chooses to participate, to evaluate whether a participant may be placed with a nonparticipant ([WIC 16522.1\(b\)\(9\)\(V\) and WIC 16522.1\(c\)\(6\)](#)).

- The bill requires program managers for a THPP for NMDs to have a specified master's degree or higher from an accredited or state-approved graduate school or equivalent education or experience ([HSC Section 1559.110 \(h\) \(1-2\)](#)). Additionally, the program manager shall have a minimum of two years' experience working in a public or private child welfare social services setting, or specific experience working with transition age youth who are 16 to 24 years old ([HSC § 1559.110\(i\)\(1\)\(A\)](#)). Program managers hired prior to January 1, 2018, are not required to meet these requirements to remain employed as program managers ([HSC Section 1559.110\(i\)\(D\)](#)).
- The bill requires case managers for a THPP for NMDs to have a specified bachelor's degree listed in [HSC Section 1559.110\(h\)\(2\)](#), or a bachelor's degree in another area plus two years' experience working in a public or private child welfare social services setting, or specific experience working with transition age youth who are 16-24 years old ([HSC § 1559.110\(k\)\(1\)\(A\)-\(B\)](#)). Case managers hired prior to January 1, 2018, are not required to meet these requirements to remain employed as case managers ([HSC Section 1559.110\(k\)\(3\)](#)).

Implementation:

Until regulations are adopted, if a LPA finds that a transitional housing placement provider has failed to comply, as specified, the LPA should cite the facility for a violation of [HSC Section 1506](#) or [1559.110](#), as applicable.

Transitional Housing Placement Providers are required to update their Program Statements and their Plan of Operations, as applicable, to bring their programs into conformity with the amendments laid out in SB 612. SB 612 has created program changes and thus these changes will have to be addressed in an updated Plan of Operation. The Department is working on a program statement template and updating the Transitional Housing Placement Provider regulations. We will update providers once these become available in order for them to update their Plan of Operations. In the interim, licensees can refer to SB 612 for those changes, their local regional office, or Community Care Licensing.

SB 213 (Mitchell), Chapter 733, Statutes of 2017

[SB 213](#) amended [Section 1522](#) of the HSC to revise the criteria for criminal record exemptions for foster care providers or Resource Family applicants. For purposes of this Implementation Plan, “foster care providers” means approved relatives, nonrelative extended family members (NREFM), licensed foster family homes, and CFHs. The bill:

- Amends criteria for granting criminal record exemptions to foster care providers or Resource Family applicants as well as other adults residing in the home (see table below).
- Expands simplified exemptions for placement of youth in foster care by expanding the categories of crimes and the number of convictions that are presumptively exemptible.
- Authorizes emergency placement before an exemption is granted under specified circumstances.
- Removes the following crimes from the non-exemptible crimes list for foster care providers or Resource Family applicants:
 - Misdemeanor indecent exposure
 - Misdemeanor financial abuse against the elderly
- Requires that CDSS convene a stakeholder workgroup, to streamline the exemption process for prospective employees of children’s residential facilities.

Background Information: Criminal Record Clearance and Exemption Process

Existing law requires that community care facility licensees and applicants, employees and adult residents, foster care provider applicants and Resource Family applicants obtain a criminal record clearance or exemption from the CDSS. The CDSS provides a clearance if an individual has no conviction other than a minor traffic violation. An individual with a conviction for a crime other than a minor traffic violation is not granted licensure or approval unless an exemption is granted by CDSS. An exemption may be granted if CDSS has substantial and convincing evidence to support a reasonable belief that the individual is of good character.

The CDSS uses the two exemption processes listed in the table below.

	Exemption Type	Process Used	Applies
1	Standard	An exemption process that requires the licensee or individual to submit an exemption request and supporting documentation. This is a lengthy process that necessitates the review of the individual's criminal history, arrest records or court documents, and the individual's statement of events.	In all instances, unless the crime(s) in question are non-exemptible or fall within the simplified exemption criteria (see below).
2	Simplified	An expedited exemption process that does not require the licensee or individual to submit an exemption request or any supporting documents.	<ol style="list-style-type: none">1) When the individual does not have a demonstrated pattern of criminal activity;2) When the individual has no more than one conviction;3) When the conviction is a misdemeanor and is a crime that is nonviolent and does not pose a risk of harm to a subject; and,4) When it has been at least five consecutive years since the completion of the most recent period of incarceration or supervised probation.

NOTE: [HSC Section 1522\(g\)](#) specifies certain crimes, known as “non-exemptible crimes,” for which the CDSS does not grant an exemption.

Changes to the Exemption Process Due to SB 213

Prior to the enactment of SB 213, a standard exemption process was used for all individuals unless and until a simplified or conditional exemption was triggered or the crime was a non-exemptible crime. However, SB 213 requires a simplified exemption for foster care provider applicants unless the individual's criminal history triggers the standard exemption process or includes a non-exemptible crime.

The new exemption process is only applicable to foster care providers and Resource Family applicants and does not apply to other community care licensed facility categories.

The table below provides an overview of the new exemption process for foster care providers and Resource Family applicants only.

	Exemption Type	Process Used	Applies
1	Simplified	An expedited exemption process that does not require the licensee or individual to submit an exemption request or any supporting documents. NOTE: Only applicable when granting an exemption.	In all instances, unless the crime(s) in question are non-exemptible, fall within the standard exemption criteria (see below), or CDSS chooses to apply the standard exemption process because of health and safety concerns.
2	Standard	An exemption process that requires the licensee or individual to submit an exemption request and supporting documentation. Lengthier process that necessitates the review of the individual's criminal history, arrest records or court documents, and the individual's statement of events.	To the following crimes only: <ol style="list-style-type: none"> 1) Misdemeanor crimes within the last five years. 2) Felony crimes within the last seven years. 3) Misdemeanor statutory rape (Penal Code Section 261.5). 4) Misdemeanor indecent exposure (Penal Code Section 314). 5) Misdemeanor financial abuse against the elderly (Penal Code Section 368). NOTE: Additional considerations include the nature of the crime, time since committed, number of crimes, likelihood of future crimes, rehabilitation efforts, certificate of rehabilitation or pardon, character references, honesty during the process, and efforts to assist the agency in obtaining arrest records.

Implementation:

No action is required. The requirements of this bill will impact the policies and procedures of the Caregiver Background Check Bureau and counties. Further instructions to the counties will be provided in a revised version of the Background Check Assessment Guide.

SB 420 (Monning), Chapter 333, Statutes of 2017

[SB 420](#) amended [Penal Code Section 11105](#), which affected all facility types licensed by the Community Care Licensing Division, to clarify that the California Department of Justice must provide sentencing information as part of the criminal history information disseminated to CDSS.

Implementation:

Information only. No action required.

If you have any questions, please contact Fernando Sandoval, Bureau Chief of the Statewide Children's Residential Program, at (916) 651-5380.